



Department of Energy
Acquisition Regulation

No. 91-4
Date JUN 19 1991

ACQUISITION LETTER

This Acquisition Letter (AL) is issued by the Procurement Executive pursuant to a delegation from the Secretary and under the authority of the Department of Energy Acquisition Regulation (DEAR) Subpart 901.301-71.

CONTENTS

CITATION

TITLE

FAR 3.104-11(a)	Processing violations or possible violations
DEAR 915.1003	Debriefing of unsuccessful offerors

I. Purpose. The purpose of this AL is two-fold. First, this AL implements the requirements of Federal Acquisition Regulation (FAR) 3.104-11(a) concerning the identification of the individuals within Department of Energy (DOE) responsible for concurring in the contracting officer's decision regarding the impact of a violation, or possible violation, of the procurement integrity requirements occurring during the conduct of a procurement. Second, this AL establishes the policy that contracting officers shall inform unsuccessful offerors of the impact, and implications, of the requirements of the procurement integrity statute and regulations on the information provided to the unsuccessful offerors during the debriefing process when it occurs prior to contract award.

II. Background. In November 1988, the Office of Federal Procurement Policy (OFPP) Act was amended by Congress to include section 27, dealing with procurement integrity. The amended Act, in general, prohibits certain activities by procurement officials and competing contractors during the conduct of a Federal agency procurement. In part, the Act contains certification and disclosure requirements for both Government officers and contractors, post-employment restrictions for Government officers and employees, and civil and criminal penalties for violations. Subsequently, the requirements of the Act were suspended by the Ethics Reform Act of 1989 (Pub. L. 101-194), for the period December 1, 1989, through November 30, 1990.

Contracting officers must exercise care when providing unsuccessful offerors information concerning their proposals so as not to provide source selection or proprietary information to the unsuccessful offeror. Contracting officers must only provide the unsuccessful offeror with information concerning the evaluation of its proposal. This information shall be presented to the unsuccessful offeror in terms of the evaluation criteria stated in the solicitation, and shall address evaluated strengths and weaknesses of the proposal. In addition, the contracting officer should address areas in which the offeror could have improved its proposal. Unsuccessful offerors shall not be provided with any information regarding the ratings, rankings, or proposed costs of other competing offerors, including the successful offeror.

Unsuccessful offerors may make inquiries during the debriefing that could be viewed as soliciting source selection or proprietary information. When this occurs, contracting officers shall refuse to provide the information to the unsuccessful offeror and advise the individual making the inquiry that the information requested is source selection or proprietary information. Such inquiries, however, are not to be considered as violations, or possible violations, of FAR 3.104-8, where the circumstances do not provide a reasonable basis to believe that a violation may have occurred.

C. DEAR Implementation. Attachment I to this AL provides interim regulatory implementation of the policy guidance set forth herein.

IV. Effective date. This AL is effective immediately upon its release.

V. Expiration date. This AL will expire thirty (30) days after the date of publication of a final rule in the Federal Register implementing these changes in the DEAR.